

COM/CXW/avs

Decision 01-05-089 May 24, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking into the operation of interruptible load programs offered by Pacific Gas & Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and the effect of these programs on energy prices, other demand responsiveness programs, and the reliability of the electric system.

Rulemaking 00-10-002
(Filed October 5, 2000)

INTERIM OPINION

This decision modifies the adopted Priority System for Rotating Outages by adding an additional category to the list of essential customers normally exempt from rotating outages.

1. Background

The Commission recently modified Decision (D.) 91548 (3 CPUC2d 510) by updating the Priority System for Rotating Outages, including the list of essential customers normally exempt from rotating outages. (Decision (D.) 01-04-006, Attachment C.) Many other customers continue to press for exemption, however, including, but not limited to, skilled nursing facilities, water districts, sewer districts, laboratories, dentists, outpatient surgery centers, refineries, and stadiums.

2. Discussion

We must be responsive to pending and new requests for exemption from rotating outages, and have a process to expeditiously consider those requests. Summer 2001 is fast approaching, and we must respond quickly.

At the same time, however, every additional exemption reduces the pool of customers from which to draw for rolling outages. The potential frequency and duration of rotating outages experienced by remaining customers is increased as the pool of candidate customers is reduced. Moreover, maintenance of a reasonable pool of customers available for rotating outages is vital to have rotating outages as a tool in protecting the state from widespread system collapse when demand otherwise exceeds supply. We must balance the need to exempt some customers with the need to maintain as large a pool as possible.

The existing Priority System for Rotating Outages takes several factors into account, including, but not limited to, the most important public benefits; greatest public need; economic, social and other effects of a temporary discontinuance of electrical service; and allocation rules, orders and regulations of the federal government. (Pub. Util. Code Sections 2771 and 2772.) In large measure, these factors result in eligibility for essential customer status based on public health and safety (e.g., fire, police, prisons, national defense, hospitals, water and sewer utilities for such purposes as fire fighting).

We do not seek to disturb the existing balance of these factors as now reflected in the essential customer list. At the same time, however, we must consider additional ways to be responsive to pending and new requests for essential customer status.

We conclude that we should not disturb the existing balance of factors, but that we should provide a limited, further classification. To do this, we further

modify the essential customer list to allow exclusion of additional customers as necessary to protect public health and safety. This limitation balances the public interest in exempting a limited set of additional customers with the public interest in maintaining as large a pool from which to draw for outages as possible. It considers equity between customers, achieves the most important overall public benefit, and meets the greatest public need by, to the extent reasonably possible, mitigating the risk of a widespread electrical system collapse and the devastating effects that would result from such collapse.

To qualify for this category, a customer must show that inclusion of the customer in a rotating outage presents unacceptable jeopardy, or imminent danger, to public health and safety. This jeopardy or danger must be beyond economic harm or inconvenience to the customer. Rather, it must be jeopardy or danger to wider public health and safety.

We anticipate a substantial administrative burden associated with the processing of pending and new requests for exemption from rotating outages prior to the summer of 2001. Processing such requests within a short time period is an extraordinary circumstance which requires the Commission to act in a fair and timely fashion to expand the list of essential use customers for the purpose of alleviating jeopardy or imminent danger to the general public health and safety. We find that this extraordinary circumstance justifies contracting for consultant or advisory services on an expedited basis, as set forth in Public Utilities Code Section 632.

Pursuant to Public Utilities Code Section 1708, the Commission may rescind, alter or amend a prior decision upon notice to parties, along with the opportunity to be heard. Notice of the amendment to D.01-04-006 was provided by the filing and service of a Draft Decision on all parties, with the opportunity

to file and serve comments and reply comments. No party requested hearing on the proposed change.

3. Need for Expedited Consideration

Rule 77.7(f)(9) of the Commission's Rules of Practice and Procedure provides in relevant part that:

“...the Commission may reduce or waive the period for public review and comment under this rule...for a decision where the Commission determines...on its own motion, that public necessity requires reduction or waiver of the 30-day period for public review and comment. For purposes of this subsection, ‘public necessity’ refers to circumstances in which the public interest in the Commission adopting a decision before expiration of the 30-day review and comment period clearly outweighs the public interest in having the full 30-day period for review and comment. ‘Public necessity’ includes, without limitation, circumstances where failure to adopt a decision before expiration of the 30-day review and comment period...would cause significant harm to public health or welfare. When acting pursuant to this subsection, the Commission will provide such reduced period for public review and comment as is consistent with the public necessity requiring reduction or waiver.”

We balance the public interest in quickly amending D.01-04-006 against the public interest in having a full 30-day comment cycle on the proposed amendment. We conclude that the former outweighs the latter. We must give timely consideration to requests before Summer 2001, including sufficient time for utilities to implement any Commission decision to exempt additional customers. Failure to adopt a decision before expiration of the 30-day review and comment period, however, will substantially increase the risk of significant harm to public health and safety. We seek valuable public review and comment

of our proposed change, and find that a reduced period balances the need for that input with the need for timely action before Summer 2001.

4. Comments on Draft Decision

On May 3, 2001, the draft decision of Assigned Commissioner and Presiding Officer Wood on this matter was filed and served on parties in accordance with Section 311(g)(3) of the Pub. Util. Code and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on May 14, 2001, and reply comments were filed on May 18, 2001.¹ We modify the draft decision as appropriate based on our review of comments and reply comments.

SDG&E states that there may be circumstances in which a municipal or other government agency or authority requests circuit exemption from rotating outage based on public health and safety. SDG&E says, for example, that local police may order that power not be curtailed, or be restored, where thousands of people are gathered, or during a riot or other civil emergency. According to

¹ Comments were filed by Southern California Edison Company, San Diego Gas & Electric Company (SDG&E), California Energy Commission (CEC), Energy Producers and Users Coalition (EPUC), University of California and California State University (UC/CSU), Internal Services Department of the County of Los Angeles, and the California Association of Health Facilities (CAHF). Comments were also received from the Association of California Water Agencies (ACWA). Reply comments were filed by Pacific Gas & Electric Company (PG&E) and UC/CSU. In addition, letters were received from many water districts (e.g., Metropolitan Water District of Southern California, Humboldt Bay Municipal Water District, Santa Margarita Water District, Marina Coast Water District, Calleguas Municipal Water District, Northern California Water Association, Desert Water Agency, Yolo County Flood Control and Water Conservation District, Valley Center Municipal Water District, Eastern Municipal Water District, Lindsay-Strathmore Irrigation District, Bear Valley Community Services District, Placer County Water Agency, Kern County Water Agency, Newhall County Water District, Sonoma County Water Agency, Westside Water District).

SDG&E, the utility should be permitted to override whatever status the customer's circuit already has upon order of the local police. SDG&E asks that the Commission explicitly recognize respondent utility's ability to comply with directives from local authorities, such as police or fire, to exempt a circuit.

We generally agree. Respondent utilities should comply with valid orders of responsible police or fire authorities, and other authorities with emergency powers, to exempt a circuit from outage, or order a circuit re-energized, based on public health and safety. To the extent such orders are implemented, however, they must be executed to the extent reasonable and necessary in coordination with, and with the agreement and approval of, the California Independent System Operator (CAISO). The CAISO must be involved as necessary so that such action will not jeopardize a widespread system collapse.

Respondent utility must coordinate as needed with the CAISO since a local emergency official cannot be expected to know and consider the status of the entire statewide electrical system. When properly coordinated and approved with the CAISO as needed, however, respondent utility should comply with valid orders of responsible local emergency officials.

Application of this exception must be further clarified. We do not at this time authorize general exemption of all water agencies, sewer utilities, skilled nursing facilities (SNFs), transit agencies, or several others requesting exemption. We decline to allow respondent utilities to override our decisions, or prejudice future decisions, regarding these public entities by responding to a request for exemption from a local agency or authority (e.g., a request from an official of a local water district, health department, transit agency). On the other hand, we agree with SDG&E to the extent that respondent utilities may implement a valid order from responsible police, fire, or similar authority with emergency powers,

for immediate protection of public health and safety when jeopardy or danger is imminent, to the extent properly coordinated with the CAISO, as needed.

While we make this clarification at SDG&E's request, we decline to modify the list of essential customers. SDG&E does not allege that it lacks the authority to respond to a proper order of responsible local authority with emergency powers, and we are not convinced that respondent utilities lack that authority. To prevent any possible confusion, we clarify that respondent utilities may do so when properly coordinated with the CAISO. We are not convinced, however, that this must be explicitly stated in an amendment to the list of essential customers in the Priority System for Rotating Outages.

The CEC recommends that the entire infrastructure used to produce gasoline, diesel, and aviation fuels be exempt from rotating outages. The CEC says that without such exemption the public health and safety is jeopardized, citing D.01-01-056 in support. The EPUC similarly supports exemption of operations within the entire fuel production chain. At a minimum, refineries must be exempt, according to both CEC and EPUC.

We decline to order general exemption of the entire fossil fuel infrastructure, or a limited exemption for refineries. Rather, we expect to address the fossil fuel infrastructure, with particular focus on refineries, in a subsequent order.

Further, CEC recommends essential customer status be granted to any customer (e.g., industrial, agricultural) able to make a compelling showing of economic damage as a result of exposure to rotating outages. That is, CEC urges adoption of an economic standard for evaluating customers for essential customer status.

We decline to add an explicit economic damage test, or establish a category of essential customer based on economic damage. We have already taken economic factors into account in determining categories of essential customers.

Moreover, we agree with PG&E that the Commission and utilities would be overwhelmed with requests for essential customer status if economic effects permit a customer to qualify as an essential customer. With very limited exceptions (if any), every customer suffers economic damage when exposed to a rotating outage. Damage to any customer affects the local community, and the state.

UC/CSU assert that the challenge here is defining public health and safety. UC/CSU point out, for example, that at the UC Davis campus alone, over 1,800 research laboratories potentially use Class A toxic gases, hazardous chemicals, or other hazardous materials, including Level 3 pathogens. A rotating outage can shut down vital exhaust systems, and place students, employees, and others at great risk. UC/CSU ask that any additional categories be defined so as to allow campuses a reasonable opportunity to present these concerns to the Commission.

Campuses, and all non-residential customers, will have this reasonable opportunity to present their concerns by the process established in the May 21, 2001 Assigned Commissioner's Ruling (ACR). (See Appendix A.) We approve and confirm the ACR and the process therein. (Pub. Util. Code Section 310.) Customers will complete a petition to qualify for essential customer status based on public health and safety. A consultant will evaluate the petitions, and make a recommendation to the Commission. We will give careful

consideration to the petitions, and the consultant's recommendations, when we make subsequent decisions exempting individual customers in this new category. We will there seek a reasonable balance between the need to exempt some customers to protect public health and safety, and the need to maintain as large a pool for rotating outages as possible in the best interest of the state as a whole.

CAHF argues that SNFs now meet the public health and safety standard, and should be classified as essential customers. CAHF states that SNFs should be directly included in the essential customer list, either with hospitals, or as a separate, stand alone category.

We decline to adopt CAHF's recommendation. Rather, we adopt the process in the May 21, 2001 ACR. CAHF should separately petition on behalf of each SNF customer, or each SNF customer should petition on its own, for inclusion in the new essential customer category based on jeopardy or imminent danger to public health and safety. We are convinced that the best opportunity to optimize the overall public health and safety is to consider individual petitions. We are not able to grant additional categorical exemptions for entire classes or subclasses of customers given the need to maintain as large a pool of customers as possible for rotating outages. Rather, we balance individual and statewide competing needs and interests to reach the most reasonable solution possible. We do this while, at the same time, we get ever closer to the minimum percentage we must retain of candidate customers for outages to protect the entire state from widespread or total electrical system collapse, and the devastating effects that could result from that collapse.

ACWA and a host of water companies recommend that the proposed exemption be expanded to consider public welfare, operational considerations,

and potential effects on other essential services. Further, ACWA says availability of backup generation should not itself be the basis of denying exemption.

To the extent these recommendations would exempt water and sewage treatment facilities, we agree with PG&E that the proposals should not be adopted. Rather, as PG&E points out, over a thousand additional circuits in PG&E's service territory alone would be affected. We are convinced the more reasonable approach is to adopt the amendment to the essential customer list as we do herein, and consider individual requests by the process established in the May 21, 2001 ACR.

Findings of Fact

1. Many customers continue to press for exemption from rotating outages for Summer 2001.
2. The extraordinary circumstance of alleviating unacceptable jeopardy or imminent danger to the general public health and safety during the summer of 2001 from any rotating outages justifies the expedited contracting for consultant or advisory services.
3. Exemption of customers from rotating outages reduces the pool of candidate customers for rotating outages, and increases the potential frequency and duration of rotating outages experienced by the remaining customers in the candidate pool.
4. Maintenance of a reasonable pool of customers available for rotating outages is vital to have rotating outages as a tool in protecting the state from widespread system collapse when demand otherwise exceeds supply.
5. The existing Priority System for Rotating Outages takes several factors into account, including, but not limited to, the most important public benefits; greatest public need; economic, social and other effects of a temporary

discontinuance of electrical service; and allocation rules, orders and regulations of the federal government.

6. The existing Priority System for Rotating Outages largely results in eligibility for essential customer status based on public health and safety.

7. Notice of an amendment to D.01-04-006 was provided by the filing and service of a Draft Decision with the proposed amendment, upon which parties were invited to file and serve comments and reply comments.

8. The public interest in quickly amending D.01-04-006 so that consideration may be given to exemption of additional customers for Summer 2001 outweighs the public interest in a full 30-day public review and comment of the proposed amendment.

9. Local emergency officials cannot be expected to know and consider the status of the entire statewide electrical system.

10. Every customer, with few if any exceptions, suffers economic damage when exposed to a rotating outage, and that damage affects the local community and the state.

11. The process for considering additional exemptions from rotating outages provided by the May 21, 2001 ACR permits a reasonable opportunity for non-residential customers to present public health and safety concerns to the Commission.

12. The best opportunity to optimize the overall public health and safety is to consider individual petitions for essential customer status based on imminent jeopardy or danger to public health and safety.

Conclusions of Law

1. Pub. Util. Code Section 1708 permits the Commission to amend an order or decision upon notice to parties, with the opportunity for parties to be heard.

2. The Commission should be responsive to pending and new requests for exemption from rotating outages.

3. Public health and safety should be considered in assessing whether or not any other customers should be added to the list of essential customers.

4. Petitioners should be required to demonstrate that inclusion of the customer in a rotating outage presents unacceptable jeopardy, or imminent danger, to public health and safety beyond economic hardship or inconvenience to the customer.

5. In making these finding, we have determined than an extraordinary circumstance exists that justifies expedited contracting for consultant or advisory services, consistent with Public Utilities Code § 632.

6. The period for public review and comment on the proposed amendment to D.01-04-006 should be reduced, pursuant to Rule 77.7(f)(9).

7. Respondent utilities should comply with valid orders from responsible emergency officials when jeopardy or danger to public health and safety is imminent, including not curtailing, or restoring, a circuit that is scheduled to be, or has been, curtailed, when that action is coordinated with the CAISO to the extent necessary and reasonable.

8. The May 21, 2001, ACR should be approved and confirmed.

9. This order should be effective today so that any potential threat to public health and safety can be addressed immediately.

O R D E R

IT IS ORDERED that:

1. The May 21, 2001 Assigned Commissioner's Ruling, and the process and orders adopted therein, is approved and confirmed. The Ruling is contained in Appendix A.

2. The Priority System for Rotating Outages is amended by adding Item 1.M to the list of Essential Customers:

“M. Limited other customers as necessary to protect public health and safety, to the extent exempted by the Commission.”

The amended Priority System for Rotating Outages is contained in Appendix B.

3. The period for public review and comment on the Draft Decision is reduced.

4. This rulemaking remains open.

This order is effective today.

Dated May 24, 2001, at San Francisco, California.

LORETTA M. LYNCH
President
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners

I dissent.

/s/ Henry M. Duque
Commissioner

I dissent.

/s/ Richard A. Bilas
Commissioner

APPENDIX A

CXW/t94 5/21/2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking into the operation of interruptible load programs offered by Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and the effect of these programs on energy prices, other demand responsiveness programs, and the reliability of the electric system.

Rulemaking 00-10-002
(Filed October 5, 2000)

**PRESIDING OFFICER AND ASSIGNED COMMISSIONER'S RULING
ON PROCESS FOR A CUSTOMER TO QUALIFY AS AN ESSENTIAL
CUSTOMER NORMALLY EXEMPT FROM ROTATING OUTAGES
ON THE BASIS OF PUBLIC HEALTH AND SAFETY**

1. Summary

Respondent utilities and the Commission shall implement the process stated in Attachment A to consider non-residential customer requests to be included as an essential customer normally exempt from rotating outages on the basis of public health and safety. Respondent utilities shall notify all non-residential customers of this process by direct mail within four business days of the date of this ruling. The Notice is contained in Attachment B.

2. Background

The Commission recently modified Decision (D.) 91548 (3 CPUC2d 510) to update the Priority System for Rotating Outages, including the list of essential customers normally exempt from rotating outages. (D.01-04-006, Attachment C.) Many other customers continue to press for exemption for Summer 2001,

however, including, but not limited to, skilled nursing facilities, water districts, sewer districts, laboratories, dentists, outpatient surgery centers, refineries, and stadiums.

3. Discussion

The Commission intends to be responsive to pending and new requests for exemption from rotating outages. Summer 2001 is fast approaching, and the Commission must act quickly.

At the same time, however, every exemption reduces the pool of customers from which to draw for rolling outages. The potential frequency and duration of rotating outages experienced by all remaining customers is increased as the pool of candidate customers is reduced. Moreover, maintenance of a reasonable pool of customers available for rotating outages is vital to have rotating outages as a tool in protecting the state from widespread system collapse when demand otherwise exceeds supply.

The Commission is considering further modification to the list of essential customers.² The proposed modification would allow exclusion of additional customers as necessary to protect public health and safety. The exclusions, if any, would be based on balancing the public interest between exempting additional customers and maintaining as large a pool as possible from which to draw for outages.

Because time is short, non-residential customers should be permitted now to petition for status in what is soon expected to be the new classification of essential customer normally exempt from rotating outage. (Item 1.M. on the

² A Draft Decision was issued for comments on May 3, 2001. The Draft Decision is Item 6 on the agenda for the Commission meeting to be held on May 24, 2001.

amended list of Essential Customers.) The process will be limited to non-residential customers at this time for the following reasons. First, there is no evidence that rotating outages affecting residential customers threatens public health and safety beyond the individual customer. The focus of this further consideration of essential customers is jeopardy or danger, beyond harm or inconvenience to the individual customer, to the wider public health and safety.

Second, the administrative burden associated with processing the anticipated volume of residential petitions would prevent the Commission from acting in a fair and timely fashion to expand the list of essential use customers as necessary for other customers. A successful process for Summer 2001 must be focused so that it may yield the most benefit to the state in the limited time available.

Third, each excluded customer excludes an entire circuit. The greater number of residential customers, if granted exemptions, would quickly end rotating outages as an effective tool.

Non-residential customers must be notified of this opportunity, and time is of the essence. As a result, respondent utilities should notify each non-residential customer of this process by direct mail.

Further, the Commission must have information on the effect to the electric system of granting some or all petitions. To accomplish this, respondent utilities should provide information or analysis requested by the Commission or the Commission's consultant on load and system conditions.

On April 23, 2001, the California Association of Health Facilities (CAHF) filed a petition for modification of D.01-04-006 asking that skilled nursing facilities be classified as essential customers. The petition will be considered within the scope of the process described and adopted herein. To be considered,

however, CAHF must resubmit its request using the procedures, and specific petition form, adopted in this ruling.

Any similar pleading by any other party (e.g., pleadings by water districts, steel companies, glass companies) must also be resubmitted using the procedures and specific petition form adopted herein. The April 23, 2001 CAHF petition, or similar petitions or pleadings, will not be processed for the purpose of considering general or specific exemptions absent CAHF and other parties providing the necessary customer-specific information on the specific petition form adopted herein.

The adopted process requires respondent utilities to undertake a special mailing to all non-residential customers, incur other costs for load and system analysis, and may involve other costs. Respondent utilities may include these costs in the memorandum accounts authorized by D.01-04-006 for costs incurred implementing orders issued in this proceeding. Respondent utilities carry the burden of proof for eventual recovery of these costs but, as stated in D.01-04-006, absent incompetence, malfeasance, or other unreasonableness, the Commission expects to authorize full recovery of all dollars spent by utilities for these programs to get California through this crisis. (Mimeo., page 78.)

IT IS RULED that:

1. The process contained in Attachment A shall be adopted and used by the Commission to consider petitions by non-residential customers for inclusion in the essential customer category normally exempt from rotating outages based on public health and safety.

2. Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) shall each provide direct mail notice of the process adopted in Attachment A to each non-

residential customer within four business days of the date of this ruling.
Respondent utilities shall use the Notice in Attachment B for this purpose.

3. Respondent utilities shall promptly respond to all inquiries from the Commission or the Commission's consultant for load and reserve margin analysis, or any other request for information or analysis, to successfully implement the process adopted herein.

4. The April 23, 2001 petition for modification of Decision 01-04-006 filed by the California Association of Health Facilities (CAHF), and any similar pleadings by any other party, shall be considered using the adopted procedures and specific petition form adopted herein. CAHF shall complete and submit on behalf of each customer, or have each customer complete and submit, the petition on the Commission's website: www.rotating-outages.com.

Alternatively, CAHF or the customer may call 1-888-741-1106 for further assistance. A separate petition using the petition form adopted herein must be submitted for, or by, each customer. Any similar petition for modification or other pleading filed by any other party shall also be considered using the procedures adopted herein. The party shall complete for each customer, or each customer represented by the party shall complete, the petition on the Commission's website, or may call 1-888-741-1106 for assistance.

5. Each respondent utility may record in the memorandum account authorized by Decision 01-04-006 the costs incurred to implement the orders and procedures adopted in this Ruling.

Dated May 21, 2001, at San Francisco, California.

/s/ CARL WOOD

Carl Wood
Presiding Officer
Assigned Commissioner

ATTACHMENT A

PROCESS FOR A NON-RESIDENTIAL CUSTOMER TO QUALIFY AS AN ESSENTIAL CUSTOMER NORMALLY EXEMPT FROM ROTATING OUTAGES ON THE BASIS OF PUBLIC HEALTH AND SAFETY

A non-residential customer of a Commission regulated respondent public utility may file a petition seeking status as an essential customer normally exempt from rotating outages on the basis of public health and safety. Petitioners are strongly encouraged to complete an electronic form on the Commission's website (<http://www.rotating-outages.com>). Petitioners without electronic access may call the toll-free information line at 1-888-741-1106 for assistance. Consideration of incomplete applications may be delayed.

The filing of a petition by any petitioner constitutes submission under penalty of perjury by the person submitting the form that the statements in the petition are true, and matters stated based on information and belief are believed to be true. The petition may be submitted by the customer, or may be submitted on behalf of the customer by an individual, a corporate officer, a government officer, an authorized agent, or an authorized employee representing the customer. (Rule 2.4 of the Commission's Rules of Practice and Procedures.) The name, title (if applicable), and relationship to the customer of the person submitting the form shall be clearly stated.

The request must include facts sufficient to demonstrate that inclusion of the customer in a rotating outage presents imminent jeopardy or danger to public health and safety beyond economic harm or inconvenience to the customer. Petitions will not be accepted from residential customers.

The petition need not be served on any other party. A special service list will be created solely for the purpose of this portion of the proceeding. (Rule 2.3(g).)¹ The special service list will be composed of each petitioner, and any party to the Rulemaking that asks to also be included on the special service list.

¹ Comment on creation of the special service list is waived given the shortage of time, and the fact that any party may seek to be added to the special service list. (Rule 87.)

Each petition will be reviewed by a consultant hired by the Commission for this purpose. The consultant will conduct a risk assessment and screening. Based on the risk assessment, the consultant will develop a prioritized list of the requests for essential customer status. Utilities will analyze the effects on load and system conditions if exemptions are granted.

A Draft Decision will be prepared in which petitions for essential customer status based on public health and safety are granted or denied. Comments may be submitted on the Draft Decision and, if submitted, shall be filed with the Commission and served on the special service list using a shortened comment cycle. Each customer authorized essential customer status in the Draft Decision, or the representative of the customer who submitted the petition, must file a written verification with the Commission no later than the date comments are due on the Draft Decision. (See Rule 2.4.) The verification must be signed and dated. It must state that the contents of the petition are true of the verifying person's own knowledge as of the date the petition was filed, except as to matters that were stated on information or belief, and as to those matters that the verifying person believes them to be true as of the date the petition was filed. (Rule 2.4(b).) The Draft Decision will be considered by the full Commission at the first meeting after the Draft Decision is issued for comment, and the comment period has expired.

Hearing will not be held on any request unless, in an exceptional case, one is specifically called by the Assigned Commissioner, or assigned Administrative Law Judge. Absent the exceptional case with a hearing, the Commission's decision will be based on the petition, report and recommendation of the consultant, the load/system analysis performed by the utility, any other data or analysis submitted at the Commission's or consultant's request, the customer's verification, and comments on the Draft Decision.

Rules 4-8.2 (Article 2.5 regarding SB 960 procedures) shall be waived. As a result, for example, the proceedings will not be categorized, and a scoping memo and ruling will not be issued. This is done to secure a just, speedy and inexpensive determination and resolution of each pleading. (Rule 87.)

The Commission will be requested to reduce or waive the normal 30-day period for public review and comment of the Draft Decision based on the public necessity to grant some or all pleadings to preserve public health and safety. (Rule 77.7(f)(9).)

Petitions may be filed at any time. Petitions filed by 5:00 p.m. Pacific Daylight Savings Time (PDT) on June 1, 2001 will be processed as a group, and will be considered by the Commission on or before August 2, 2001. Requests filed thereafter will be processed in groups for subsequent meetings. Every reasonable attempt will be made to address public health and safety in the broadest, most inclusive way, but requests filed by 5:00 p.m. PDT on June 1, 2001 may obtain exemptions that are unavailable for later petitioners.

The planned schedule is:

By 5:00 p.m. PDT June 1, 2001 Deadline for petitions

July 10, 2001 Draft Decision filed and served for
comment

July 16, 2001 Comments filed and served on Draft
Decision; verifications filed by customers
granted essential customer status in Draft
Decision

On or before August 2, 2001 Commission Decision

Petitions will be filed in Rulemaking 00-10-002, but need not be served on any other party. The consultant will maintain a list on the website (<http://www.rotating-outages.com>) of all petitions that have been filed.

Notice of the opportunity for non-residential customers to petition for essential customer status based on public health and safety will be accomplished by:

1. Utility direct mailing to all non-residential customers within four business days of the date of the Assigned Commissioner's Ruling;
2. PUC press release and press conference;
3. Publication on the web site (<http://www.rotating-outages.com>) of the electronic petition form and information;
4. Information at 1-888-741-1106.

(END OF ATTACHMENT A)

ATTACHMENT B

DIRECT MAIL NOTICE TO NON-RESIDENTIAL CUSTOMERS

Respondent utilities shall mail the following notice directly to non-residential customers.

This summer, California is facing the possibility of frequent rotating electrical outages (blackouts). Certain customers, such as hospitals, fire and police stations, and air traffic control facilities, are classified as essential use customers and are normally exempt from rotating outages.

The number of customers who can be exempted is severely limited due to the necessity of maintaining a reasonable pool of customers from which to draw for rotating outages. These outages are a vital tool in protecting the state from widespread electrical system collapse when demand for electricity exceeds supply.

The California Public Utilities Commission (CPUC) is in the process of modifying the list of essential customers as necessary to protect public health and safety. The Commission is now considering applications from non-residential customers for essential customer status.

A non-residential customer of Pacific Gas and Electric, Southern California Edison and San Diego Gas and Electric may file an application seeking status as an essential use customer. Applicants are strongly encouraged to complete an electronic form on the CPUC's website (<http://www.rotating-outages.com>). Those applicants without internet access should call the toll-free information line at 1-888-741-1106.

The application shall be submitted by the customer, or may be submitted on behalf of the customer by an individual, a corporate officer, a government officer, an authorized agent, or an authorized employee.

The request must demonstrate that inclusion of the customer in a rotating outage presents jeopardy or imminent danger to public health or safety. Claims of

economic harm or inconvenience to the customer will not be considered. Applications will not be accepted from residential customers.

All applicants will be required to sign under penalty of perjury that the application is true and correct. Any claims of jeopardy or danger to public health or safety will be referred to appropriate state and local agencies including the Office of Emergency Service and the Occupational Health and Safety Administration.

Each application will be reviewed to determine the risk posed to public health and safety as a result of the applicant being subject to rotating outages. Applications will be prioritized based on risks posed to public health or safety. Utilities will analyze the effects on electric system reliability if exemptions are granted. The CPUC will review both the risk assessment and any effects on electric reliability associated with a request for essential use customer status.

A Draft Decision will be prepared in which applications for essential use customer status are granted or denied based risks posed to public health or safety. Comments may be filed and served on the Draft Decision. Any requests for exemptions that are submitted before 5:00 p.m. Pacific Daylight Time (PDT), June 1, 2001 will be acted upon on or before August 2, 2001.

Many customers share distribution circuits with essential customers and thus have not experienced rotating outages. **Because circuit configurations may change, customers who believe they currently qualify as essential use should contact their utility to verify their actual status.**

Applications must be received by **5:00 p.m. PDT, June 1, 2001** to ensure timely consideration. Applications filed after June 1, 2001 will be considered only if conditions permit additional exemptions.

If you have questions or need additional information please see the CPUC's special website (<http://www.rotating-outages.com>) or call the CPUC's toll-free information line at 1-888-741-1106.

(END OF ATTACHMENT B)

CERTIFICATE OF SERVICE

I certify that I have by both mail and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Presiding Officer and Assigned Commissioner's Ruling on Process for a Customer to Qualify as an Essential Customer Normally Exempt from Rotating Outages on the Basis of Public Health and Safety on all parties of record in this proceeding or their attorneys of record.

Dated May 21, 2001, at San Francisco, California.

/s/ GABY L. SUSANTO

Gaby L. Susanto

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

(END OF APPENDIX A)

APPENDIX B

APPENDIX B
AMENDED
ADOPTED PRIORITY SYSTEM
FOR ROTATING OUTAGES
(Amended Attachment C to D.01-04-006)

1. Essential Customers – Normally Exempt from Rotating Outages

- A. Government and other agencies providing essential fire, police, and prison services.
- B. Government agencies essential to the national defense.
- C. Hospitals.
- D. Communication utilities, as they relate to public health, welfare and security, including telephones.
- E. Navigation communication, traffic control, and landing and departure facilities for commercial air and sea operations.
- F. Electric utility facilities and supporting fuel and fuel transportation services critical to continuity of electric power system operation.
- G. Radio and television broadcasting stations used for broadcasting emergency messages, instructions, and other public information related to the electric curtailment emergency.
- H. Water and sewage treatment utilities may request partial or complete rotating outage exemption from electric utilities in times of emergency identified as requiring their service, such as fire fighting.
- I. Areas served by networks, at serving utility's discretion.
- J. Rail rapid transit systems as necessary to protect public safety, to the extent exempted by the Commission.
- K. Customers served at transmission voltages to the extent that (a) they supply power to the grid in excess of their load at the time of the rotating outage, or (b) their inclusion in rotating outages would jeopardize system integrity.
- L. Optional Binding Mandatory Curtailment Program (OBMC):

Any customer, or customers, meeting the following criteria.

The customer must file an acceptable binding energy and load curtailment plan with the utility. The customer must agree to curtail electric use on the entire circuit by the amount being achieved via rotating outages. The customer's plan must show how reduction on the entire circuit can be achieved in 5 percent increments to the 15 percent level, and show how compliance can be monitored and enforced. The customer must maintain the required reduction during the entire rotating outage period. The required curtailment level is requested prior to commencement of Stage 3. Several customers on a circuit may file a joint binding plan to guarantee the required curtailment from the entire circuit. Each utility shall facilitate communication between customers on a circuit if any customer expresses interest in enrolling in the OBMC program.

Note: Protection cannot be guaranteed because daily circuit switching may temporarily change a customer's outage block and priority classification.

- M. Limited other customers as necessary to protect public health and safety, to the extent exempted by the Commission.

2. Outage Notification

A. Life Support and Critical Care

Life support and critical care customers shall be notified by recorded or other message of a rotating outage to which they will be affected. The call is not required until a rotating outage is imminent. Utilities must undertake their best efforts to inform these customers.

B. Large Customers, Economic Damage Customers, and Danger to Health and Safety

As circumstances permit, individual warning of rotating outages will be given to large customers having demand of 300 kW or more. It will also be given to other customers upon their showing to the utility of major economic damage, or clear and imminent danger to personal health or safety. Individual timely warning

can not be guaranteed, however, because of time, manpower, or communication limits, or due to daily circuit switching which may temporarily change a customer's outage block number.

C. All Other Customers

Warning and other relevant information may be provided by mass media, with no special treatment or individual notification generally given.

(END OF APPENDIX B)

R00-10-002
D.01-05-089

Commissioners Bilas and Duque, dissenting:

This order is a cruel hoax on ratepayers. It dangles the carrot of a possible rolling black out exemption before nonresidential customers. It denies it to residential customers. It spends monies on consultants to manage the deluge of applications for essential customer status. The estimated number is 10,000. We envision far more. This will be a huge burden and expense for little result. The burden and expense is for an elusive carrot that will be snatched away because the distribution system is not configured to permit us to do this. To allow these kinds of exemptions on a case-by-case basis means that everyone on the circuit with the essential customer will not be blacked out. That means the pool of customers left to be blacked out is smaller. This results in fewer customers being blacked out more often. Every essential customer we add will thrust a bigger hardship on the rest of Californians. This is simply not workable. It is window dressing. It is expensive. And it will lead to massive customer confusion and frustration. Almost all of the nonresidential applicants will be denied the essential customer status. Residential customers will not understand why nonresidential customers are getting a benefit that they cannot have.

If a customer is so essential to public health and safety, why not require adequate back up generation rather than granting further exemptions? The scare scenarios cited by the majority do not take this into consideration. Especially now that the Governor has ordered provision of one hour's prior notice of blackouts, this order is unnecessary. There is simply no reason to go forward with this process. We object to the ACR that put this process in motion before the Commission voted on this decision. That ACR stood due process on its head, where it seems to have been spending a lot of time recently. We respectfully dissent.

/s/ HENRY M. DUQUE

Henry M. Duque
Commissioner

/s/ RICHARD A. BILAS

Richard A. Bilas
Commissioner

San Francisco, California
May 24, 2001

